

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

<b>IN RE:</b>	*	<b>CASE NO. 00-00801(GAC)</b>
	*	
<b>WILFREDO DE JESUS RIVERA</b>	*	<b>CHAPTER 13</b>
<b>SONIA M HERNANDEZ MELENDEZ</b>	*	
	*	<b>ADV. PROC. NO. 04-00165</b>
<b>Debtors</b>	*	
	*	
*****		
<b>WILFREDO DE JESUS RIVERA</b>	*	
<b>SONIA M HERNANDEZ MELENDEZ</b>	*	
	*	
<b>Plaintiffs</b>	*	
	*	
<b>Vs.</b>	*	
	*	
<b>GE CAPITAL CORPORATION OF PR</b>	*	
	*	
<b>Defendant</b>	*	
*****		

**SUR-REPLY TO DEFENDANT’S REQUEST FOR RECONSIDERATION OF  
DECISION AND ORDER AND REQUEST FOR ADDITIONAL FINDINGS OF  
FACT**

**TO THE HONORABLE COURT:**

**COME NOW**, the above-named plaintiffs through the undersigned attorney and very respectfully pray, allege, and request:

**Facts**

1. A Decision And Order in the instant proceeding entered docket on November 20<sup>th</sup>, 2008. (Docket #61.)
2. That on December 6<sup>th</sup>, 2007 defendant filed a Motion For Reconsideration And Request For Additional Findings Of Fact. (Docket #63.)

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3. That on December 17<sup>th</sup>, 2007 plaintiff filed its opposition to defendant's request on grounds that said request after the ten-day period permitted by the Rules of Bankruptcy Procedure. (Docket #65.)
4. That on January 24<sup>th</sup>, 2008 defendant replied that it was indeed on time inasmuch as the ten-day-period permitted by Rule 6 (a) of the Federal Rules of Civil Procedure does not take into account weekends and holidays if the term permitted is "less than 11 days." (Docket #67.)

### **Applicable Law**

5. That technically defendant could be correct if the instant proceeding were a civil case taken before a federal district court, however, this is an adversary proceeding within a bankruptcy case before a bankruptcy court and as such has its own specialized set of rules which must be obeyed.
6. That Rule 9006 (a) of the Federal Rules of Bankruptcy Procedure, in its pertinent part states: When the period of time prescribed or allowed is less than 8 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.
7. That in addition, even if the term was as stated in F.R.C.P. 6(a), the day of November 23<sup>rd</sup>, 2007 mentioned by defendant is not a legal holiday as defined by said rule.

### **Conclusion**

8. That inasmuch as defendant filed its Request For Reconsideration And For Additional Findings of Fact sixteen days after entry of Decision and Order, in contravention of Federal Rules of Bankruptcy Procedure 7052, 9006(a), and 9023, the same is untimely filed, whereby this Court's Order of November 20<sup>th</sup>, 2007 is not subject to review and therefore final, and unappealable.

**RESPECTFULLY SUBMITTED.**

**I HEREBY CERTIFY** that a copy of this writ has been sent to attorney for defendant General Electric Capital Corporation of Puerto Rico, Mr. Wilfredo Segarra Miranda, Esq., PO Box 9023385, San Juan, PR 00902-3385 [segarralaw@prtc.net](mailto:segarralaw@prtc.net); Ms. Noemí Landrau Rivera, Landrau And Associates, PMB 660 497 Ave. E Pol, San Juan, PR

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00926-5639 and to standing Chapter 13 Trustee, José Carrión, Esq. PO Box 9023884, San Juan, PR 00902 3884 [ecfmail@ch13-pr.com](mailto:ecfmail@ch13-pr.com).

In Bayamón, Puerto Rico, this 25<sup>th</sup> day of February, 2008.

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